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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/082,247

05/20/1998

JAMES G. NADEAU

P-2821RI

2478

7590

05/08/2006

David W. Highet
Becton, Dickinson & Company
1 Becton Drive
Franklin Lakes, NJ 07417

EXAMINER

TUNG, JOYCE

ART UNIT

PAPER NUMBER

1637

DATE MAILED: 05/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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DAVID W. HIGHET
BECTON, DICKINSON & COMPANY
1 BECTON DRIVE
FRANKLIN LAKES, NJ 07417

In re Application of	:
James Nadeau et al	:
Serial No.: 09/082,247	: DECISION ON PETITION
Filed: May 20, 1998	:
Attorney Docket No.: P-2821R1	:

This letter is in response to the petition under 37 C.F.R. 1.313(a) filed January 20, 2006, requesting withdrawal of a Notice of Non-Compliant Amendment.

BACKGROUND

Applicants filed a reply to an examiner issued Office action mailed October 26, 2004, on April 6, 2005. The response contained an amendment to claims 21 and 29, claims added to the reissue application by in an earlier response and followed 37 CFR 1.173(b) is submitting the amendment. The status of all claims was set forth on page 4 of the response. The amendment was proper in all respects.

On May 5, 2005, a Notice of Non-Compliant Amendment under 37 CFR 1.121 was mailed to applicants setting a time period for reply of one month. Following a telephone interview with the person issuing the Notice and oral indication that it would be withdrawn, applicants resubmitted the amendment on September 6, 2005.

ON September 22, 2005, a second Notice of Non-Compliant Amendment was mailed to applicants by a different person, again setting a one month time period for reply.

On January 20, 2006, applicants filed this petition.

DISCUSSION

The above response and Office actions have been reviewed. Each reply is clearly identified as a response in a reissue application. Amendments in reissue applications must follow 37 CFR 1.173(b). The amendment filed April 6, 2005, was in accordance with this rule and should have been entered. It was Office error to have mailed the first Notice of Non-Compliant Amendment to applicants with regard to this response. In view of applicants' telephone interview with the

person issuing the original Notice and agreement that it was in error, the mailing of a second Notice by a second individual was also in error. Both Notices are hereby withdrawn.

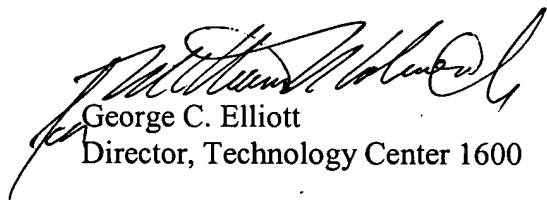
DECISION

For all of the above reasons, the petition is **GRANTED**.

The amendment of April 6, 2005, will be entered and the application forwarded to the examiner for consideration thereof.

The extension of time fee of \$1020.00 paid on September 7, 2005, will be credited to applicants' Deposit Account No. 50-2228 as it was for submission for a paper that should not have been required. In addition, the petition fee paid of \$130.00 will also be credited to applicants' Deposit Account No. 50-2228 as there is no fee for this petition.

Should there be any questions regarding this decision, please contact Special Program Examiner, William R. Dixon, Jr. by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.



George C. Elliott
Director, Technology Center 1600

PK

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<p>PATENT APPLICATION</p>  <p>09082247</p>

<p>PATENT APPLICATION</p> <p></p>
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PATENT
P-2821R1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): J. Nadeau and G. Walker
REISSUE OF: Patent No. 5,547,861
SERIAL NO.: 09/082,247 GROUP: 1637
FILING DATE: May 20, 1998 EXAMINER: J. Tung
FOR: Detection of Nucleic Acid Amplification

The Assistant Commissioner of Patents
Post Office Box 1450
Alexandria, Virginia 22313

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING TRANSMITTED VIA FACSIMILE TO THE USPTO AT 703-295-5000 872-1306	
ON:	April 26 2005 (DATE OF DEPOSIT)
BY:	Rachel Novak (NAME OF DEPOSITOR)
Rachel Novak (SIGNATURE)	4-26-05 (DATE)

RESPONSE PURSUANT TO 37 C.F.R. §1.111

Sir:

This is a Response to the Office Action mailed on October 26, 2004 (Paper No. 10222004).

Amendments to the Claims begin on page 2 of this Response.

Status of the Claims begin on page 4 of this Response.

Remarks begin on page 5 of this Response.

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7590 05/05/2005				
David W. Highet Becton, Dickinson & Company 1 Becton Drive Franklin Lakes, NJ 07417			EXAMINER TUNG, JOYCE	
			ART UNIT	PAPER NUMBER
			1637	
DATE MAILED: 05/05/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.



Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 4-26-05 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. In order for the amendment document to be compliant, correction of the following item(s) is required. Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted. 37 CFR 1.121(i).

THE FOLLOWING CHECKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____
- ☐ 3. Amendments to the drawings: _____
- ☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following 7 status identifiers: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New) and (Not entered).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☒ E. Other: Improper status identifiers - uses "pending" and "Four" times amended.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf>.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given **ONE MONTH** from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this **ONE MONTH** time limit is not extendable.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION** (including a submission for an RCE), and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a **TIME PERIOD** of **ONE MONTH** from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an Advisory Action. The period for response to a final rejection continues to run from the date set in the final rejection, and is not affected by the non-compliant status of the amendment.

KATRINA TURNER
Legal Instruments Examiner (LIE)

571-272-0564
Telephone No.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/082,247	05/20/1998	JAMES G. NADEAU	P-2821RI	2478

7590 09/22/2005
David W. Highet
Becton, Dickinson & Company
1 Becton Drive
Franklin Lakes, NJ 07417

EXAMINER

TUNG, JOYCE

ART UNIT PAPER NUMBER

1637

DATE MAILED: 09/22/2005

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091082247

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Legal Instruments Examiner (LIE)

Telephone No.